

UNITED STATES DISTRICT COURT
SOUTHERN OF TEXAS
HOUSTON DIVISION

In re: ALLAN HAYE
Debtor

Chapter 7
Case No. 24-
Out of District Bankruptcy Case

JAMES ALLAN ALLAN A. HAYE ROBERT L.
THOMAS *Plaintiffs/Counter-Defendants*

CAUSE NO. 2020-35780

vs
PCF INVESTMENTS INC, ITS SUBISDARY
PCF PROPERTIES IN TX. LLC
Defendants/Third-Party Plaintiff

vs.
ELIZABETH THOMAS, JAMES M. ANDERSEN
Third-Party Defendants

In re: P.C.F. Properties in TX, LLC
Plaintiff

OR

MISC. DOCKET NO. 2020-35780

vs

James M. Andersen, Elizabeth Thomas
Jasmine B .Jarbis, Jireh Pitts, and
Monique Moore et al.
Defendants

Removed from: 80th District Court
Harris County, Texas

**NOTICE OF REMOVAL
TRANSFER TO U.S. SOUTHERN DISTRICT OF NEW YORK
MOTION FOR CONTEMPT OF COURT**

TO: Clerk of the U.S. District Court for the Southern District of Texas: Houston

PLEASE TAKE NOTICE THAT, James M. Andersen (the “Defendant”) after considerable communications with Marilyn Burgess the Harris County District Clerk Administrative Office, and the Harris County Attorney Office hereby removes to this Court the state court action described herein, pursuant Federal Rule of Bankruptcy Procedure 9027 copies are being served on all parties at the addresses listed in Plaintiffs’ that have been served with the court complaint

and are being filed in the 80th District Court and The Texas Supreme Court.

INTRODUCTION

On August 12, 2024, James M. Andersen filed a “Notice of Removal” Federal Rule of Bankruptcy Procedure Rule 9027(a)(1) removing parties and the entire case under cause No. 2020-35780, styled as *James Allen, Allan Haye, Robert L. Thomas vs. PCF Investments Inc., its subsidiary PCF Properties in Texas LLC., vs. Elizabeth Thomas and James M. Andersen* from the 80th District Court, Harris, County Texas to the U.S. District Court for the Southern District of Texas: Houston Division under case No. 24-cv-02999.

On August 12, 2024, James M .Andersen filed to effectuate the removal from state court by filing with the 80th District Clerk of Court in cause No. 2020-35780, case styled as *James Allen, Allan Haye, Robert L. Thomas vs. PCF Investments Inc., its subsidiary PCF Properties in Texas LLC., vs. Elizabeth Thomas and James M. Andersen*, a stamped copy of the Notice of Removal pursuant to F.R.B.P. Rule 9027(c) giving notice that the case No. 2020-35780 had been removed to federal Court a copy was also served on the First Court of Appeals

On August 14, 2024, Mr. Andersen filed a Amended Notice of Removal in the U.S. District Court Southern District Texas, in the case styled as *James Allen, Allan Haye, Robert L. Thomas vs. PCF Investments Inc., its subsidiary PCF Properties in Texas LLC., vs. Elizabeth Thomas and James M. Andersen* case No. 24-cv-02999, to clarify that P.C.F. Properties in TX LLC., is not named as a party to the 80th District Court case removed.

On or about August 15, 2024, the U.S. District Court Southern District Texascase No. 24-cv-02999, in the case styled as *James Allen, Allan Haye, Robert L. Thomas vs. PCF Investments Inc., its subsidiary PCF Properties in Texas LLC., vs. Elizabeth Thomas and James M. Andersen* assigned the case to the U.S. Bankruptcy Cour for the Southern District of Galveston as a

Adversary Proceeding under case No. 24-08005.

On August 16, 2024, John V. Burger of Barry & Sewart PLLC., filed a “Motion to Remand” on behalf of P.C.F. Properties in TX, LLC.

Prior to Mr. Andersen filing of its August 12, 2024, Notice of Removal on July 11, 2024, John V. Burger and Barry & Sewart PLLC., had initiated a “new cause of action” in the 80th District court by filing a “Motion for Judicial Review of Documentation or Instruments Purporting to Create Liens or Claims” with new parties and assigned it to the Misc. Docket No. 2020-35780 and then assigned Misc Docket to the 80th District Court, Harris County, Texas.

On July 11, 2024, Mr. Burger removed the parties: James Allen, Allan Haye, Robert L. Thomas (the Plaintiffs) PCF Investments Inc., its subsidiary PCF Properties in Texas LLC., as (the “Defendants”), Elizabeth Thomas and James M. Andersen as (the “Third Party Defendants”): and converted the 80th District Court case from Cause No. 2020-35780, to a Misc. Docket No. 2020-35780 and renamed the parties as *In re P.C.F. Properties in TX, LLC.*, (the “Plaintiff”) and James M. Andersen, Elizabeth Thomas, Jasmine B .Jarbis, Jireh Pitts, Monique Moore and Shelly Spires (the “Defendants”).

On August 22, 2024, Mr. Andersen filed in the U.S. Bankruptcy Court a “Second Amended Notice of Removal” (the Adversary Complaint”) and renamed the parties in the case as *In re P.C.F. Properties in TX, LLC.*, (the “Plaintiff”) vs. James M. Andersen, Elizabeth Thomas, Jasmine B .Jarbis, Jireh Pitts, Monique Moore and Shelly Spires (the “Defendants”).

On August 23, 2024, the U.S. Bankruptcy Court terminated and removed PCF Investments Inc., its Subsidiary PCF Properties in Texas LLC, Allan A Haye, Robert L Thomas and James Allen as parties from the case.

None of the above named Defendants *James M. Andersen, Elizabeth Thomas, Jasmine B Jarbis, Jireh Pitts, Monique Moore and Shelly Spires*, filed an answer or objection to the Plaintiff In re P.C.F. Properties in TX, LLC, Motion to Remand its case to the 80th District Court.

On September 10, 2024, the Honorable Judge Alfredo R. Perez U.S.B.J., granted the remand Motion and remanded the case styled as *Plaintiff P.C.F. Properties in TX, LLC vs. James M. Andersen et, al., Defendants*, to the 80th Judicial District Court docket No. 2020-35780.

The Petitioner Robert L. Thomas is not named as a party to the case styled as *Plaintiff P.C.F. Properties in TX, LLC vs. James M. Andersen et, al., Defendants*, remanded to the 80th Judicial District Court docket No. 2020-35780.

BASIS FOR REMOVAL

On August 8, 2024, the Debtor Allan Haye filed a Chapter 7 Petition (the "Petition Date"), for relief under Title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (the "Bankruptcy Code"), which includes the bankruptcy automatic stay.

The commencement of a case under Title 11 creates an estate. 11 U.S.C. §541(a). Such estate is comprised of all property, wherever located and by whomever held, including all legal or equitable interests of the *debtor* in property as of the commencement of the case. See, 11 U.S.C. § 541(a)(1). Property of the estate includes all legal or equitable interests of the debtor in property, including "*causes of actions*". 11 U.S.C. § 541.

MOTION FOR CONTEMPT

According to the Honorable Judge Jeffrey P. Norman U.S.B.J., misrepresentation by anyone, of a bankruptcy order the court retains authority to enforce that order and to basically penalize anyone for the misrepresentation, On March 14, 2024, Judge Norman, held a hearing

on P.C.F. Properties in Texas LLC, Motion to Vacate a order lifting the stay in a appeal pending in another stated in the case stayed In Re Elizabeth Thomas Case No. 23-34971. Attorney John V. Burger was in attendance at the hearing.

This case is of significance because at the hearing Mr. Burger argued at length throughout the whole hearing how Ms. Thomas and those associated with her will misuse and misrepresent the courts order lifting the stay if the order is not vacated. See Exhibit 1 for extensive arguments of Mr. Burger regarding the misuse and misrepresentation of bankruptcy orders.

Here Mr. Burger is attempting to misuse and misrepresent the Honorable Judge Alfredo R. Perez U.S.B.J., September 10, 2024, remand order which remanded the case styled as as *In re P.C.F. Properties in TX, LLC.*, (the "Plaintiff") vs. James M. Andersen, Elizabeth Thomas, Jasmine B .Jarbis, Jireh Pitts, Monique Moore and Shelly Spires (the "Defendants") to the 80th District Court under MISC Docket No, 2020-35780, . by attempting tot use it as a global or universal remand order to reinstate and remand other cases and parties that were never before the court as Judge Norman ruled bankruptcy courts have authority to enforce their orders and to basically penalize anyone for the misrepresentation

All courts retain jurisdiction to interpret and enforce their own orders." *In re Charter Commc'ns*, No. 09-11435, 2010 WL 502764, at *4 (Bankr.S.D.N.Y. Feb. 8, 2010); see also *Travelers Indem. Co. v. Bailey*, 557 U.S. 137, 151, 129 S.Ct. 2195, 174 L.Ed.2d 99 (2009). This is a core proceeding under 28 U.S.C. § 157(b)(2)(A) and (O) the action outline in this adversary proceeding seeking "the enforcement or construction of a bankruptcy court orders" arises in the Chapter7 proceeding, because it raises a dispute created by the fact of the bankruptcy court. *In re Sterling Optical Corp.* , 302 B.R. 792, 801 (Bankr. S.D.N.Y. 2003). See *Mountain Am. Credit Union v. Skinner (In re Skinner)*, 917 F.2d 444, 448 (10th Cir. 1990) (enforcement of order from

core proceeding is itself a core proceeding)

MOTION TO TRANSFER

.Defendant intends to file a separate motion pursuant to Subsection (1) of section 1443 any of the following civil actions or criminal prosecutions, commenced in a State court may be removed by the defendant to the district court of the United States for the district

- (1) Against any person who is denied or cannot enforce in the courts of such State a right under any law providing for the equal civil rights of citizens of the United States, or of all persons within the jurisdiction thereof;
- (2) For any act under color of authority derived from any law providing for equal rights, or for refusing to do any act on the ground that it would be inconsistent with such la.

Dated: October 10, 2024,

Respectfully submitted,

By:/s/James M. Andersen
James M. Andersen Pro, Se
P. O. Box 58554
Webster, Texas 77598-8554
Tel. (281)488-2800
jandersen.law@gmail.com

CERTIFICATE OF SERVICE

The undersigned certifies that on October 10, 22, 2024 a copy of the foregoing Notice of Removal was served EFC- Service System or E-mail and U. S. Mail, postage prepaid, to:

John V. Burger
Barry & Sewart PLLC
4151 Southwest Freeway, Suite 680
Houston, Texas 77027
evictions@barryandsewart.com

The 80th District Clerk of Court and
Marilyn Burgess
Harris County District Clerk
201 Caroline, Suite 420
Houston, TX 77002
m.burgess@hcdistrictclerk.com

Eleventh Administrative Judicial Region of Texas
Honorable Susan Brown, Presiding
301 Fannin St
Houston, TX 77002
Rebecca Brite, Executive Assistant
via Email: Rebecca_Brite@justex.net

Kristen Golby Deputy Clerk
Supreme Court of Texas
201 West 14th Street Rm. 104
Austin, TX 78701
Kristen.Golby@txcourts.gov

Harris County District Attorney Office
Public Corruption Department
1201 Franklin St
Houston, TX 77002

New York Attorney General Office
Civil Rights/Criminal Division
28 Liberty St.
New York, NY 10005

U.S. Attorney Office
For the Southern District of New York
Criminal Division
26 Federal Plaza, 37th Floor
New York, NY 10278

By:/s/James M. Andersen

4.

EXHIBIT-1- MOTION TO VACATE
HEARING TRANSCRIPT

1

1 IN THE UNITED STATES BANKRUPTCY COURT

2 FOR THE SOUTHERN DISTRICT OF TEXAS

3 HOUSTON DIVISION

4 IN RE: § CASE NO. 23-34971-13
§ HOUSTON, TEXAS
5 ELIZABETH THOMAS, § THURSDAY,
DEBTOR. § MARCH 14, 2024
§ 1:32 P.M. TO 2:00 P.M.

7 **MOTION TO VACATE (VIA ZOOM)**

8 BEFORE THE HONORABLE JEFFREY P. NORMAN
9 UNITED STATES BANKRUPTCY JUDGE

10

11

12 APPEARANCES: SEE NEXT PAGE

13 ELECTRONIC RECORDING OFFICER: AARON JACKSON

14 COURTROOM DEPUTY: TRACEY CONRAD

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TRANSCRIPTION SERVICE BY:

21 JUDICIAL TRANSCRIBERS OF TEXAS, LLC
22 935 Eldridge Road, #144
Sugar Land, TX 77478
281-277-5325
23 www.judicialtranscribers.com

24

25 Proceedings recorded by electronic sound recording;
transcript produced by transcription service.

APPEARANCES :

FOR PCF PROPERTIES IN TX, LLC: ATTORNEY AT LAW
John V. Burger, Esq.
4151 Southwest Freeway
Suite 680
Houston, TX 77027
713-960-9696

FOR THE CHAPTER 13 TRUSTEE: Christina Rodriguez, Esq.

ALSO APPEARING: ELIZABETH THOMAS,
Pro Se

1 HOUSTON, TEXAS; THURSDAY, MARCH 14, 2024; 1:32 P.M.

2 THE COURT: The next case is the Thomas case,
3 23-34971.

4 MR. BURGER: Good afternoon, Your Honor.

5 John Burger on behalf of the Movant and Creditor
6 P.C.F. Properties in TX, LLC, and Tony Halaris (phonetic) is
7 on line. He's the corporate representative.

8 THE COURT: Thank you, Mr. Burger.

9 MS. RODRIGUEZ: Good afternoon, Your Honor.

10 Christina Rodriguez appearing behalf of the
11 Chapter 13 Trustee.

12 THE COURT: Thank you, Ms. Rodriguez.

13 Anyone else appearing in this matter?

14 MS. THOMAS: Elizabeth Thomas, I'm the Debtor and
15 the Appellate.

16 THE COURT: Ms. Thomas, I need you to appear by
17 video.

18 Are you able to connect by video?

19 MS. THOMAS: Oh, I didn't -- I read your
20 procedure and it said for me to appear by -- no, not at this
21 moment, Your Honor, I don't have access to appear by video.
22 I apologize.

23 THE COURT: If you're going to appear in front of
24 me, Ms. Thomas, you have to appear by video.

25 Let me do this. Let me recall the case. I've

1 got two matters who should take just a few seconds to take
2 care of, and then I'll come back to you, all right?

3 So, I'll recall the Thomas case. Ms. Thomas, if
4 you, during the pendency, can arrange to connect by video,
5 it would be in your best interest, all right?

6 MS. THOMAS: Okay.

7 (Recess taken from 1:34 p.m. to 1:40 p.m.)

8 THE COURT: Let me return to the Thomas case,
9 which is 23-34971. Ms. Thomas is on the line now. I see
10 her. Mr. Burger is here. I see him.

11 All right. Mr. Burger, I'm going to let you
12 argue your motion. I think I have an understanding of
13 what's going on, and I just want to make sure that I
14 understand this. Let me just do this real quick. There is
15 various PCF Properties in Texas, LLC. That's your client,
16 correct?

17 MR. BURGER: No, P.C.F. Properties in TX, LLC is
18 my client.

19 THE COURT: Okay, and I'm sorry. I didn't write
20 that correctly. P.C.F. Properties in TX, LLC is your
21 client?

22 MR. BURGER: That's correct, Your Honor.

23 THE COURT: And there also is a PCF Properties
24 in Texas, LLC, very similar name, but not related to your
25 client.

1 Is that correct?

2 MR. BURGER: That is correct.

3 THE COURT: Okay, is there any connection between
4 those two companies at all other than their names are eerily
5 similar?

6 MR. BURGER: No, Your Honor. See, what happened
7 was it was by way of background --

8 THE COURT: Okay, bear with me. Let me ask my
9 questions first.

10 MR. BURGER: Okay, okay.

11 THE COURT: I lifted the stay in this litigation.
12 Is your client P.C.F. Properties in TX, LLC part of that
13 litigation?

14 MR. BURGER: Let me answer that two ways. There
15 is State Court litigation relating to property located at
16 8202 Terre Valley Lane in Tomball, Texas. My client
17 purchased that property at a nonjudicial foreclosure sale in
18 March of 2020.

19 In June of 2020, James Allen and Robert Thomas
20 filed a suit to quiet title. They named my client
21 incorrectly in the initial filings. My client appeared and
22 litigated the District Court in that case. It's 2020-65753,
23 I believe, issued a judgment in April of this year, of last
24 year quieting title to the property in my client's name.

25 Prior to the entry of the summary judgment in my

1 client's name in April of last year, Elizabeth Thomas, James
2 Anderson, who is an attorney, James Alan, Alan Hay, and
3 Robert Thomas filed an involuntary bankruptcy case in
4 Delaware and named as the Debtor, P.C.F. Investments, Inc.,
5 dba P.C.F. Properties in TX, LLC and tried to tied that
6 State Court litigation up in the involuntary bankruptcy.

7 The problem is the Debtor that they try to put
8 into bankruptcy was formed in Delaware in 1987, but
9 forfeited its corporate charter in 1993.

10 THE COURT: Okay. So, you haven't answered my
11 question though. You've gone around the horn.

12 So, there's litigation 23-CV-00147 pending in the
13 US Federal District Court of Delaware, correct?

14 MR. BURGER: Yeah, and that's where I was going
15 with the involuntary --

16 THE COURT: So, bear with me one second. Is that
17 an adversary procedure or is that a District Court action?

18 MR. BRUGER: That is an appeal of Judge Horan's
19 orders in the involuntary denying motions to reinstate and
20 remand a case. No, no, no.

21 THE COURT: So, it's an appeal of an adversary,
22 correct? Is that what you're telling me?

23 MR. BURGER: No, it's a -- no, it's an appeal of
24 the judge's orders denying matters in the involuntary case.
25 There was no adversary case filed. When Elizabeth Thomas

1 and the other petitioning creditors --

2 THE COURT: Again, you want to give me more
3 details than I want to know. So, bear with me for one
4 second.

5 So, that's an appeal of the Bankruptcy Court
6 decision?

7 MR. BURGER: Yes, and what they're doing in the
8 Delaware --

9 THE COURT: Mr. Burger, hold on. Okay?

10 MR. BURGER: Okay.

11 THE COURT: Answer my questions and then shut up,
12 okay? All right?

13 So, it's an appeal of a Bankruptcy Court
14 decision, okay? Is your client involved in that appeal at
15 all, a named party appearing in that appeal?

16 MR. BURGER: We have made an appearance in that
17 matter on behalf of the Texas Corporation.

18 THE COURT: Okay.

19 MR. BURGER: And the reason for that is --

20 THE COURT: Again, you want to give me more
21 information than I want, and I asked you just to answer my
22 question. I'll give you every opportunity to argue it --

23 MR. BURGER: Okay.

24 THE COURT: -- in just a second, okay?

25 So, James Anderson is a lawyer who represents

1 apparently the other PCF Investment, the other similarly
2 named corporation; is that correct?

3 MR. BURGER: No, I believe the person who
4 represents the similarly named company is somebody by the
5 name of Azalea Spiders (phonetic).

6 THE COURT: Okay, and that's the woman who
7 basically signed without prejudice and without recourse.

8 Okay, all right.

9 MR. BURGER: Yeah, yeah.

10 THE COURT: All right. So --

11 MS. THOMAS: Can I say something?

12 THE COURT: Ms. Thomas, you get to speak in just
13 a few minutes. but not until then.

14 MS. THOMAS: Okay.

15 THE COURT: Okay. So, it says James --

16 MS. THOMAS: Yes, Your Honor.

17 THE COURT: -- M. Anderson is the Movant,
18 Elizabeth Thomas is the Debtor, Co-Debtors are James Allen,
19 Allen Hay, and Robert L. Thomas, and Judgment Creditor, PCF
20 Properties in TX, LLC, all right? You've made an appearance
21 in that.

22 You're not a named party, correct?

23 MR. BURGER: That's correct.

24 THE COURT: All right. So, tell me why I should
25 vacate my order lifting the stay.

1 MR. BURGER: Because, Your Honor, the motion that
2 was originally filed, there was an agreed motion lifting the
3 stay. I filed an objection to it because the language that
4 they wanted to submit to the Court says that there is a
5 settlement agreement that affects the Terre Valley property
6 and my client's interest in that property.

7 THE COURT: Okay, but I'm looking at the order,
8 and all my order says is, "Accordingly, it is ordered that
9 the motion is granted leave from the automatic stay to
10 pursue the US Federal District Court of Delaware remedies."
11 That's all my order provides for.

12 MR. BURGER: That's what the order provides, but
13 if the Court looks at what they filed, it says that there's
14 a global --

15 THE COURT: I don't care what they filed. I only
16 care what I signed. What they filed has no legal effect
17 whatsoever.

18 MR. BURGER: But what happens is Ms. Thomas and
19 her people take your orders and other Court's orders, and
20 they misrepresent the effects of those orders to other
21 Courts, and it costs my client in excess of \$100,000 trying
22 to get this thing straightened out.

23 THE COURT: Okay. So, let's answer this question
24 then. Assuming that this order is misrepresented to anyone,
25 don't I have an authority to enforce that order and to

1 basically penalize anyone for doing that?

2 MR. BURGER: Yeah, I think the Court should
3 penalize them for misleading the Court about what the status
4 of the underlying litigation is. They are going to take
5 your Court's order. They're going to put it in front of the
6 Delaware Court. The Delaware Court has already reinstated
7 the bankruptcy appeal and set a certain briefing deadline.

8 THE COURT: Okay. So, let's assume that I vacate
9 the order. What then happens? What do you want me to do?

10 MR. BURGER: I don't want an order from your
11 Court being used as a subterfuge to affect the title that my
12 client has in the Terre Valley property. If the Court looks
13 at whatever the settlement agreement that they filed or
14 they've entered into, it says that their vacating --

15 THE COURT: Mr. Burger, I couldn't care less
16 about any sort of settlement agreement. I haven't approved
17 the settlement agreement. I don't -- I mean, all I did was
18 lift the stay. That's all I did. That's all the order
19 provides for.

20 MR. BURGER: Right. Yeah, but that motion says
21 that the stay needed to be lifted to effectuate a settlement
22 agreement, and that settlement agreement vacates my client's
23 judgment in April of 2023, it vacates the orders out of the
24 Delaware Bankruptcy Court, it vacates orders holding
25 Ms. Thomas and the other people liable for numerous motions

1 to recuse the State Court Judge, to vacate a vexatious
2 litigant order that was entered in November sanctioning her
3 and James Thomas in the amount of \$50,000 for the actions
4 that they had undertaken. It's not simply lifting the
5 automatic stay, Your Honor.

6 Ms. Thomas has a history --

7 THE COURT: Mr. Burger, I'm showing you the
8 order. Here's the order right there, okay? You can look at
9 it.

10 MR. BURGER: And I --

11 THE COURT: All right, and the last paragraph,
12 "Accordingly, it is ordered the motion is granted leave from
13 the automatic stay to pursue US Federal District Court of
14 Delaware remedies." That's the only thing it says. It
15 lifts the stay. It doesn't do anything more. I can clarify
16 it and say it doesn't do anything other than lift the stay,
17 but if I don't lift the stay, what do I then do?

18 MR. BURGER: Well, first, I think the Court -- if
19 Ms. Thomas and her parties have entered into a settlement
20 agreement as part of their motion, I think they need to
21 express what those terms are to your Court, because your
22 Court is the one that has jurisdiction over whatever claims
23 and whatever matters she's trying to settle, and she didn't
24 do it. She didn't file any of the settlement agreements
25 with your Court.

1 THE COURT: But again, Mr. Burger, I haven't
2 approved any sort of settlement agreement. I'm assuming
3 someone's going to have to do that. Could be me or someone
4 else, but as a practical matter, all I did was lift the
5 stay. That's all I did.

6 I can clarify that. I haven't proved anything.
7 I haven't taken any action on anything else. All I've done
8 is lift the stay.

9 I mean, if you want me to do something else other
10 -- I mean, I'm just trying to figure out where we go. If I
11 don't lift the stay, if I vacate the order, what am I then
12 going to do?

13 (Phone loudly ringing in background.)

14 THE COURT: Whoever that is, just turn them off.

15 Okay, what's the practical ramification?

16 MR. BURGER: Well, the --

17 THE COURT: You've got litigation going on in
18 Delaware, okay?

19 MR. BURGER: Right.

20 THE COURT: You can't remove it to me. It's
21 already in Federal Court, right?

22 MR. BURGER: Right.

23 THE COURT: Okay. So, either I lift the stay or
24 I don't lift the stay. What am I going to do if I don't
25 lift the stay? What's the practical effect of that?

1 MR. BURGER: The practical effect -- I agree with
2 the Court. Lifting of the automatic stay, in my opinion,
3 is --

4 THE COURT: Does nothing other than lift the
5 stay. I mean, that's all it does.

6 MR. BURGER: It does nothing --

7 THE COURT: I mean --

8 MR. BURGER: Right, but my concern, Your Honor,
9 and I know the Court is not really concerned about the
10 underlying obligations, but I guarantee you that Ms. Thomas
11 is going to take your order to the Federal District Court in
12 Delaware, and she is going to misrepresent what happened in
13 your court and she's going to tell the Delaware District
14 Court that the company that she tried to put in bankruptcy
15 is a title interest holder in my client's property, and
16 she's going to try to get that Federal District Court to
17 approve a settlement, which she will then bring back to the
18 Texas courts. And then --

19 THE COURT: Okay, but here's the problem,
20 Mr. Burger. I can't -- I'm not an appeals court for what
21 happens in some District Court somewhere else. I can't
22 basically usurp their jurisdiction by simply saying the stay
23 is going to remain in place and don't do anything. I mean,
24 there's got to be some sort of practical way to resolve your
25 claims, okay? And I understand that, but if I can't resolve

1 them, what am I supposed to do? I mean, I understand your
2 predicament.

3 MR. BURGER: Right.

4 THE COURT: Okay, but again, litigation is -- go
5 ahead.

6 MR. BURGER: Litigation is litigation. I get
7 that, Your Honor, but remember, Ms. Thomas has broken into
8 my client's house twice since August of last year.

9 THE COURT: Okay, that's argument. That's not
10 evidence and I'm not sure I want to hear evidence on this.
11 I'm trying to determine whether I should vacate my order
12 lifting the stay, and if I should vacate it or modify it,
13 what do I then do, okay?

14 MR. BURGER: Right.

15 THE COURT: You want me to vacate the order,
16 right?

17 MR. BURGER: Right.

18 THE COURT: Okay.

19 MR. BURGER: If the Court wants to clarify --

20 THE COURT: Okay. So, bear with me. Bear with
21 me.

22 So, assuming that you want me to vacate the
23 order, what do you then want me to do?

24 MR. BURGER: If the Court wants to clarify that
25 it is expressing no, it's not making any expressions one way

1 or another on the underlying merits of whatever settlement
2 agreement is entered into between Elizabeth Thomas and the
3 other parties to what she says is her settlement agreement,
4 that's fine, but my concern is that you have two lawyers who
5 have misrepresented to you what the status of the underlying
6 lawsuit is.

7 THE COURT: Okay, 9011 applies. 9011 applies,
8 and you can file some sort of motion for sanctions. That's
9 not before me right now. I agree there may be real problems
10 with what the lawyers have done in this case based on what
11 I've seen, but that's not before me. If you want to file a
12 9011 motion, feel free.

13 MR. BURGER: Okay.

14 THE COURT: Okay, I'm here. I'm working. I'll
15 do it, okay? But the problem is, what do I then do? And I
16 think that if you want me to clarify the order, saying all
17 I've done is lift the stay, I've done anything else, and
18 Ms. Thomas, don't make any representations about what my
19 order says or doesn't say. It does one thing. It lifts the
20 stay. That's all it does.

21 I'm happy to do that as well, Okay?

22 MS. THOMAS: Can I be excused?

23 THE COURT: No, ma'am, you may not, because you
24 basically have to tell me what you want me to do or not do,
25 and I want to give you an opportunity to respond to what

1 Mr. Burger is saying.

2 Ms. Rodriguez, do you have anything you want to
3 tell me?

4 MS. RODRIGUEZ: No, Your Honor, we're just
5 observing.

6 THE COURT: Okay, and again -- and Ms. Thomas
7 just left, which is why I hate virtual hearings.

8 But Mr. Burger, I don't think this case is --

9 FEMALE SPEAKER: Sorry.

10 THE COURT: Bear with me.

11 I don't think this case is going anywhere.
12 Effectively, I think at some point in time, it's going to
13 end up being dismissed, and if that's the case, what
14 difference will it make?

15 MR. BURGER: Understood. I know that the Trustee
16 does have a motion to dismiss pending, and we haven't taken
17 a position on that at this point and we'll just deal with
18 that, but if the Court does want to issue an order
19 clarifying that it does nothing more than lift the stay,
20 then I'm comfortable with that --

21 THE COURT: All right, Ms. Thomas --

22 MR. BURGER: -- and we will proceed.

23 THE COURT: -- I'm going let you respond now to
24 what we've talked about, and I need you to tell me anything
25 you think I need to know about lifting the stay and any sort

1 of other representations you want to make to me right now.

2 MS. THOMAS: Well, first of all, Your Honor, I'm
3 really confused because P.C.F. Properties in TX was non-
4 suited from the State Court litigation on February 18th,
5 2020. They were non-suited.

6 First of all, this is not my lawsuit. I'm not a
7 plaintiff in this State Court litigation. I'm a defendant.
8 So, I didn't file anything against anybody. That's number
9 one. And second --

10 THE COURT: Okay. Whoa, whoa, whoa. Ms. Thomas,
11 you signed off on this order, the order that I signed.

12 MS. THOMAS: Yeah. Yeah, I'm talking about he's
13 talking about the State Court litigation.

14 THE COURT: Okay, and I don't want to talk about
15 the litigation that's going on in District Court, because I
16 can't do anything about that. I want to know why I should
17 or should not vacate this order.

18 MS. THOMAS: The litigation in the Delaware case
19 for PCF Investment, Inc., also known as PCF Investments.
20 PCF, Inc. is a Delaware corporation. It doesn't have
21 anything to do with Attorney Burger's P.C.F. They're not a
22 party to it. They didn't even file -- if he has problems
23 with their appeal or if he thinks there's going to be some
24 misrepresentation of the appeal, he could have filed a
25 motion to intervene. He could have filed a motion to

1 intervene and brought all these issues in front of the
2 Delaware Court, but he waited until I filed an appeal. He
3 knew that all the claims that he's bringing up were
4 transferred to the Court.

5 THE COURT: Okay. Ms. Thomas, again, I'm going
6 to direct you back to this order, okay?

7 MS. THOMAS: Yes, Your Honor.

8 THE COURT: It's an order you signed off on.
9 Mr. Burger wants me to vacate it or to clarify it. I want
10 to know what your position is relative to this order,
11 because I don't have any of that other litigation before me
12 and honestly, can't do anything about it because I don't
13 have jurisdiction.

14 I just want to know what you think about this
15 order and whether you're happy if I clarify and say all I've
16 done is lift the stay. I haven't done anything else in the
17 case. I don't want you representing that I've done anything
18 else other than lift the stay.

19 MS. THOMAS: I don't have any objection to you
20 doing that, Your Honor, because you haven't. No one has put
21 anything before you about the Delaware case. So, if you
22 want to clarify it, if you want to clarify lifting the stay,
23 that's fine.

24 And as far as Mr. Burger's talk about the
25 settlement, the Delaware District Court is the one who

1 issued an order. No one even asked me. I'm an Appellant
2 and no one even asked for a settlement. It's part of their
3 mandatory procedure for all bankruptcy appeals, that you
4 participate in mediation.

5 THE COURT: All right, Ms. Thomas. Ms. Thomas,
6 okay.

7 So, here's what I'm going to do, Mr. Burger,
8 okay? I'm going to allow you, if you feel like these
9 lawyers have misrepresented facts to me by pleadings, if you
10 want to file a motion for sanctions, I'm more than happy to
11 hear that. I'm going to enter an order, in effect, that
12 clarifies my prior order that says I've done nothing as it
13 relates to any of the claims or causes of action against any
14 of the parties who are named or unnamed in this order, that
15 all I've done is lift the stay so other courts can litigate
16 the issue, and if there's some way for me to exercise
17 jurisdiction, I will, but I don't think that there is.

18 And Mr. Burger, you can do what you need to do.

19 Ms. Thomas, you need to prosecute this case
20 properly because if you don't prosecute this case properly,
21 anything I enter after the case is dismissed doesn't do you
22 any good, doesn't do anybody any good, all right?

23 And I think we're unfortunately marching towards
24 dismissal because I don't think the case is being properly
25 prosecuted, but that's a call for another day, all right?

1 Thank you all for appearing.

2 MS. RODRIGUEZ: Thank you, Your Honor.

3 THE COURT: Thank you.

4 You're all excused, and we're adjourned.

5 (Hearing adjourned at 2:00 p.m.)

6 * * * * *

7 *I certify that the foregoing is a correct*
8 *transcript to the best of my ability due to the condition of*
9 *the electronic sound recording of the ZOOM/video/telephonic*
10 *proceedings in the above-entitled matter.*

11 /S/ MARY D. HENRY

12 CERTIFIED BY THE AMERICAN ASSOCIATION OF
13 ELECTRONIC REPORTERS AND TRANSCRIBERS, CET**337
14 JUDICIAL TRANSCRIBERS OF TEXAS, LLC
15 JTT TRANSCRIPT #68413

16 DATE FILED: MARCH 31, 2024

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